~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 16, 2022

**S. 471**

Introduced by Senators Rankin and Sabb

S. Printed 3/16/22--S. [SEC 3/17/22 1:06 PM]

Read the first time January 14, 2021.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (S. 471) to amend Section 14‑7-1050, Code of Laws of South Carolina, 1976, relating to jury voir dire, so as to provide for attorney conducted jury voir, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

LUKE A. RANKIN for Committee.

**STATEMENT OF ESTIMATED FISCAL IMPACT**

**Explanation of Fiscal Impact**

**State Expenditure**

This bill modifies the jury selection process in the court of common pleas and equity courts. Currently, the judge questions the potential jurors in order to determine their ability to serve as a juror, this questioning process is known as voir dire. After voir dire, a list of twenty jurors is randomly drawn from the remaining potential jurors to create a jury panel, from which the parties may alternatively strike jurors until twelve remain.

This bill allows the judge to determine the number of jurors that will be on the jury panel and grants the parties the right to conduct voir dire. If the parties wish to conduct voir dire, they must exchange written questions at least seven days prior to selection of the jury. The trial judge will rule on any objections to the questions and will present final approval of the questions. Each party will be given 30 minutes to ask questions, but this time limit may be extended by the judge under certain circumstances. The bill also outlines questions which may not be asked of the potential jurors during voir dire. The effective date of this bill is January 1, 2022. RFA anticipates the modified jury selection process required by this bill will begin after enactment of this bill.

In addition, the bill enables a trial judge to determine the number of jurors in a secondary jury panel, whereas currently the secondary jury panel consist of twenty jurors.

**Judicial.** This bill modifies the manner in which a jury selection is made in courts of common pleas and equity cases. Judicial indicates that these changes may lengthen the jury selection process, which could impact the court docket. However, Judicial states there is no data to estimate the number of hearings that would be impacted nor the extra docket time that may be needed due to this bill. Despite this, Judicial anticipates being able to cover any additional expenditures in the court of common pleas with existing general fund resources. Therefore, this bill will have no expenditure impact for Judicial.

**Commission on Prosecution Coordination.** This bill may result in more allocated time per case brought before a jury in the court of common pleas or an equity court if the parties choose to participate in voir dire. CPC anticipates being able to manage these additional responsibilities within existing appropriations. Therefore, this bill will have no expenditure impact for the department.

**Commission on Indigent Defense.** This bill may result in more allocated time per case brought before a jury in the court of common pleas or an equity court if the parties choose to participate in voir dire. The implementation of this bill will have no expenditure impact, as the department expects to manage any increase in the workload within current resources.

**Attorney General.** The expenditure impact is pending, contingent upon a response from the agency.

**Local Expenditure**

This bill lengthens the jury selection process which may result in additional docket time within equity courts. However, there is no data upon which to predict the number of hearings that would be impacted should the bill be enacted, nor the extra docket time that these hearings might require. Despite this, RFA anticipates any additional activities will be minimal, and can be managed with existing staff and within existing funds. Therefore, this bill will have no local expenditure impact.

Frank A. Rainwater, Executive Director

Revenue and Fiscal Affairs Office

**A** **BILL**

TO AMEND SECTION 14‑7-1050, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO JURY VOIR DIRE, SO AS TO PROVIDE FOR ATTORNEY CONDUCTED JURY VOIR DIRE BY ORAL AND DIRECT QUESTIONING; TO AMEND SECTION 14‑7‑1060, RELATING TO THE DRAWING OF A JURY PANEL, SO AS TO PROVIDE THAT THE NUMBER OF JURORS TO BE DRAWN IS WITHIN THE DISCRETION OF THE TRIAL JUDGE; AND TO AMEND SECTION 14-7-1080, RELATING TO THE DRAWING OF A SECOND JURY PANEL, SO AS TO DELETE THE REQUIREMENT THAT THE PANEL MUST BE MADE UP OF TWENTY JURORS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 14-7-1050 of the 1976 Code is amended to read:

“Section 14-7-1050. ~~In the trial of all actions at law in the courts of common pleas and issues ordered to be framed by the judge in equity cases in the courts, the clerk in the manner provided by Section 14‑7‑1060 shall furnish the parties or their attorneys with a list of twenty jurors from the whole number of jurors who are in attendance, the names on the list to be numbered from one to twenty, and be stricken off by numbers in the same manner as the regular panels of jurors in those courts have been formed. From this list the parties or their attorneys shall alternatively strike, until there are but twelve left, which shall constitute the jury to try the case or issue. In all cases the plaintiff shall have the first strike and in all civil cases any party shall have the right to demand a panel of twenty competent and impartial jurors from which to strike a jury.~~ (A) In the trial of all actions in the courts of common pleas and issues ordered to be framed by the judge in equity cases in the courts, the parties have the right to conduct voir dire, by oral and direct questioning, of the jury panel from which the trial jury is to be selected. The voir dire must be conducted after the administration of a preliminary oath, the swearing in of the jury panel, and a short, non‑argumentative statement of the case by the trial judge.

(B)(1) The scope of the voir dire is within the limits set forth by the trial judge.

(2) The purpose of the voir dire is to discover any inclinations, leanings, or bias which the jurors might have with regard to the circumstances of the case.

(C) Upon motion, by either party, to propose oral and direct voir dire questions to a jury panel, the parties shall prepare their proposed questions in writing and exchange the questions at least seven days before the selection of the trial jury. Any objections to the voir dire questions must be ruled upon by the trial judge who shall give final approval of the questions. Each party is allotted no more than thirty minutes to ask questions. If there is more than one plaintiff or one defendant with divergent interests between the plaintiff parties or defendant parties, the trial judge shall allocate an even amount of time between the parties to voir dire the jury panel. Upon motion, by either party, the thirty-minute time limit may be extended by the judge after consideration of the amount of time requested by the moving party, the length of the trial, the number of parties, the number of witnesses, the amount of damages in question, and any unique or complex legal or factual issues.

(D) After swearing in of the jury venire, a list of jurors, the number of which will be determined by the trial judge, will be prepared to participate in voir dire. Attorneys for the plaintiff shall begin voir dire by asking their approved questions. Attorneys for the defendant will then proceed with their approved questions. Additional questions may be asked in a manner in which the trial judge deems proper and within the scope set forth by the trial judge.

(E) A party may not ask the following questions without showing, to the satisfaction of the trial judge, that the question is relevant to the issue or would affect the juror’s impartiality:

(1) questions about the juror’s political views, voting patterns, or political party preferences; or

(2) questions about the juror’s religious beliefs or religious affiliations;

(F) The following questions are prohibited:

(1) questions that seek to commit a juror to a result, including but not limited to, questions about what evidence would cause the juror to find for one party over the other party;

(2) questions that have no purpose other than to argue a party’s case or to persuade the juror to find for one party over the other party; and

(3) questions about the outcome of previous trials on which the person served as a juror including, but not limited to, the vote of the juror or the verdict of the jury.

(G) After voir dire by all parties, the trial judge shall hear, outside of the presence of the jury, any challenges for cause as to any juror.

(H) After any challenges for cause have been ruled upon, the parties shall exercise peremptory challenges for the jurors remaining on the list. The plaintiff shall proceed first with a peremptory challenge, followed by the defendant, and the plaintiff and defendant shall alternate challenges until all challenges have been exhausted. After the parties have used all of their peremptory challenges, the remaining jurors will be impaneled and sworn as the trial jury.”

SECTION 2. Section 14-7-1060 of the 1976 Code is amended to read:

“Section 14-7-1060. If a computer is not used for the drawing of jurors pursuant to the provisions of Section 14‑7‑140, the clerk shall write or cause the names of the jurors in attendance to be written, each on a separate paper or ballot which must be white and plain, which must resemble each other as much as possible, and which must be so folded that the name written thereon is not visible on the outside. The clerk shall place each of the ballots or separate papers in a separate, small opaque capsule or container, which must be as uniform in size, shape, and color as possible at the time of original purchase or repurchase of the capsules or containers. Whenever a jury panel ~~of twenty~~ is to be drawn, these capsules or containers must be placed in a small rotating drum, cylindrical in shape, having a handle at the end thereof and resting on such supports that it can be turned by means of the handle, the drum, capsules, and other equipment to be furnished by the jury commissioners and approved by the resident judge. When the containers or capsules have been placed in the drum, it must be completely closed and securely fastened and rotated by means of the handle for a sufficient length of time necessary for a complete mixing of the containers or capsules and ~~the required number of~~ jurors, the number of which will be determined by the trial judge, must then be drawn, one by one, by a responsible and impartial person designated by the clerk of court, with the approval of the presiding judge. The names of the jurors so drawn must be returned to the capsules and replaced in the drum when the jurors are no longer actually engaged in service on a trial jury.”

SECTION 3. Section 14‑7‑1080 of the 1976 Code is amended to read:

“Section 14-7-1080. Should the jury charged with any case be delayed in rendering its verdict so that it could not be present to be drawn from in making the list to form a second jury, then the clerk shall present to the parties or their attorneys a list containing the names of ~~twenty~~ jurors to be drawn by the clerk from the remaining jurors in the manner provided in Section 14‑7‑1050, from which list the parties or their attorneys shall alternately strike, as provided in Section 14‑7‑1050 until twelve are left who shall constitute the jury.”

SECTION 4. This act takes effect January 1, 2022.

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